

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

FILED
FEB 22 2017
Clerk, U.S. District Court
District Of Montana
Billings

JEFFREY THOMAS KECSKES,

Plaintiff,

vs.

KRISTINA BOYSDOS, TOM
GREEN, C/O HEIMBUCK, SGT.
RILEY, and SGT. HELSPUR,

Defendants.

CV 16-47-BLG-SPW

ORDER ADOPTING
FINDINGS AND
RECOMMENDATIONS

Before the Court are United States Magistrate Judge Timothy Cavan's Findings and Recommendations filed on January 20, 2017. (Doc. 24). In his Findings and Recommendations, Judge Cavan recommended that this Court dismiss Defendant Helspur without prejudice, and if Kecskes failed to file a Notice of Change of Address on or before February 10, 2017, dismiss this case with prejudice for Kecskes' failure to comply with a Court Order. (*Id.* at 3).

Pursuant to 28 U.S.C. § 636(b)(1), the parties were required to file written objections within 14 days of the filing of Judge Cavan's Findings and

Recommendations. No objections were filed.¹ When neither party objects, this Court reviews Judge Cavan's Findings and Recommendations for clear error. *McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc.*, 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a "definite and firm conviction that a mistake has been committed." *United States v. Syrax*, 235 F.3d 422, 427 (9th Cir. 2000).

After reviewing the Findings and Recommendations, this Court does not find that Judge Cavan committed clear error. Further, as of today's date, Kecskes has not filed a Notice of Change of Address. (*See gen. Docket*). This Court finds Kecskes is in violation of Judge Cavan's Court Order and this case should be dismissed pursuant to Fed. R. Civ. P. 41(b). This determination makes dismissing Defendant Helspur without prejudice unnecessary.


Accordingly, it is hereby ordered that:

1. Judge Cavan's Findings and Recommendations (Doc. 24) are ADOPTED in part and MODIFIED IN PART.
2. The Clerk of Court is directed to close this matter and enter judgment pursuant to Rule 58 of the Federal Rules of Civil Procedure.

¹ Defendant Boysdos filed a letter explaining why she failed to file an Answer. (Doc. 29). The document does not object to Judge Cavan's Findings and Recommendations. It is unnecessary for the Court to consider the Boysdos' explanation because the Court agrees with Judge Cavan that this matter should be dismissed.

3. The Clerk of Court is directed to have the docket reflect that the Court certifies pursuant to Rule 24(a)(3)(A) of the Federal Rules of Appellate Procedure that any appeal of this decision would not be taken in good faith.

DATED this 22nd day of February, 2017.


SUSAN P. WATTERS
United States District Judge